

CALIFORNIA LEGISLATURE

STATE CAPITOL
SACRAMENTO, CALIFORNIA
95814

October 1, 2012

Governor Jerry Brown
State of California
State Capitol Building, First Floor
Sacramento, CA 95814

Dear Governor Brown:

On July 27, 2012, the California Department of Toxic Substances Control (DTSC) released for public comment the eighth iteration of the "Safer Consumer Products Regulations." As you know, the law underlying these regulations allows DTSC to regulate any chemical in nearly every consumer product sold in California. Additionally, DTSC has the authority to impose a range of unclear regulatory actions from doing nothing to completely banning a particular chemical or product from being sold in the state. It is without contention that the range and scope of these regulations is wide and can impact every manufacturer, business and consumer in California and beyond.

It is for these reasons that we write to express significant concern about DTSC's economic analysis and its lack of real answers regarding the economic impact of the proposed regulations. More than ever, it is critical that businesses be provided with certainty of future regulatory conditions, so as to not discourage job creation in California.

For example, on the Economic and Fiscal Impact Statement Form 399, developed and publicly released by the DTSC as part of the regulatory package, the following answers appear:

- *Total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime:* **UNKNOWN**
- *Enter the total number of businesses impacted:* **UNKNOWN**
- *Businesses impacted that are small businesses:* **UNKNOWN**
- *Number of businesses that will be created:* **UNKNOWN**
- *Number of businesses that will be eliminated:* **UNKNOWN**
- *Enter the number of jobs created:* **UNKNOWN**
- *Enter the number of jobs eliminated:* **UNKNOWN**

These answers are unacceptable for regulations of this magnitude. Thorough responses to these questions are necessary to achieve our collective goal of returning Californians to work and improving the overall business climate in our state, while still ensuring the public health and safety benefits of the regulations. We cannot expect California's economy and jobs climate to improve if state government cannot measure the impact of its actions.

Without fully understanding the economic impact, DTSC has crafted regulations that are open-ended and unlimited in scope. Its proposal mandates industry to develop a costly and undefined analysis that is then submitted to a review process with no defined end point, standards or criteria for businesses nor certainty as to what will be deemed compliant. The Department developed this open-ended undefined process empowering the Director of DTSC with the sole discretion to approve all matters, despite the law's very clear direction to DTSC to "devise simplified and accessible tools" for "ease of use and transparency of application for industry."

Last year, the Legislature passed and you appropriately signed SB 617 (Calderon, Chapter 496, Statutes of 2011), which requires a robust economic analysis to be conducted on any new major regulations developed by a department or agency of the State of California. The provisions of this law go into effect for regulations released less than four months from today. The intent of this bill was to improve California's regulatory climate by requiring the state to gain a better understanding of the true costs of regulations and to work with interested parties to revise regulations to reduce those costs while achieving their public policy purpose.

In an effort to ensure predictability and transparency in the regulatory arena, we respectfully request that you direct DTSC to:

1. Conduct an economic analysis on these regulations that comports with the requirements set forth in SB 617, and
2. Withhold submitting these regulations to the Office of Administrative Law until that analysis is complete and can be properly analyzed and responded to by parties impacted by these regulations.

Thank you for your consideration and response to this request. We look forward to continuing our work together to improve our economy for the benefit of all Californians.

Sincerely,

Michael Rubio

(Signature)

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